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July 11, 2011

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, S. W.
Washington, D.C. 20423

ENTERED
Office of Proceedings

JUL 11 2011

Part of
Public Record

RE: STB Finance Docket No. 35498 Adrian & Blissfield Rail Road Company
Continuance-in-Control Charlotte Southern Railroad Company, Detroit
Connecting Railroad Company and Lapeer Industrial Railroad Company

Dear Ms. Brown:

I am writing as a Person of Record in the referenced action before the Board.
In the Boards Decision of May 18, 2011 it directed.

" Each POR will be required to serve upon all other PORs, within 10 days of the service date of the service list notice, copies of all filings previously submitted by that party (to the extent such filings have not previously been served upon such other parties). Each POR also will be required to file with the Board, within 10 days of the service date of the service list notice, a certificate of service indicating that the service required by the preceding sentence has been accomplished."

To date I have yet to receive a copy of the Adrian & Blissfield Rail Road Company filings as directed in the Boards Decision. I was relying on this application to help formulate my comments in this action. My reasoning for this was that I did not want to misstate any facts due to the poor quality of the PDF version filed by them.

I checked to see if the ABDF or Mr. Hefner had filed any certificates of service, listing myself or any of the other POR in this case. When I did not find any I assumed the ABDF was no longer pursuing its application. I never thought it fathomable that the ABDF would again ignore the Boards findings. I did not become aware that they were moving forward until I received a copy of a response to Mr. Pape another POR in the action. Due to the July 4th Holiday I could not contact any one from the STB until July 5th I left several messages and spoke with staff on July 6th and 7th explaining what had happened. On July 8th I was advised that I should reduce every thing to writing as to the facts along with any comments and submit them to the Board.

As the Board is well aware the reason for this application is due to the Comments filed by Fritz R. Kahn representing the YREKA WESTERN RAILROAD COMPANY in FD35410. The YW brought to light that ABDF failed to acquire the proper authority to operate lines mentioned in FD35410. The YW also informed the board of severe problems it was experiencing in its dealings with the ABDF and its subsidiaries the CHS and the newly formed JAIL Railroad.

In response to the YW comments the ABDF put on a scathing personal attack on the owner of the YW submitting copies of tax liens and making suggestions like *"ABDF and JAIL suggests that Mr. Hammond concentrate on paying his bills"*. At no time did they take any personal responsibility for the placement of the cars in there own tracks. Nor did they address why they keep accepting them until they painted them selves into a corner?

Also in the same response they go on to attack the UTU and BLET for comments they filed on Feb 10, 2011. In an attempt to inform the board of poor training the UTU and BLET brought to light an incident that had happened on the CSXT railroad involving a JAIL crew. The UTU and BLET presented the facts as they new them. The ABDF admitted that the incident happened but responded by chiding the Organizations stating *"It is also somewhat ironic that the UTU and BLET would raise this issue since they routinely defend their members in similar situations."* They also go on to attach exhibit 2 as their proof. The UTU and BLET were not attacking any members of the crew only showing the lack of training on the part of the ABDF. Training that is required by Federal Statute for the protection of all train crews and the general public. By attaching a public law board ruling from a completely different Railroad and area of the country is proof of nothing. I would presume that both the UTU and the BLET would readily admit that they defend their members from false charges as the attached award shows. Attaching an unrelated award with out redacting the names is only an attempt to embarrass someone. And in this case that proves only to be the ABDF.

In the afore mentioned response the ABDF takes absolutely no responsibility for the incident and more over Mr. Dobronski in his statement eludes that the FRA placed the blame on the CSXT for not training his Engineer. Let me state this for the record I Scott C. Cole having started work in the Rail Industry in 1974 for the Penn Central then ConRail and now the Norfolk Southern, have never been trained by a Foreign Railroad on its own rules. I have always been trained by my own Railroad on any foreign Carriers rules I was required to know. It is by Federal Statute the responsibility of the ABDF to train its employees on the rules of all the Roads on witch they travel. The ABDF failed to do this.

I would suggest that the Board ask the FRA to supply all of its findings in this matter including if need the investigating agent to testify at a public hearing.

After the YW outing of the ABDF failure to again gain the proper authority in control. The ABDF on February 15, 2011 filed NOE FD 35253 asking for after the fact authority. In its filing the ABDF named Dale R. Pape as an applicant. On February 18, 2011 Mr. Pape filed a letter stating that he was named as applicant without his knowledge and also disputed other statements made by the ABDF in this filing. Mr. Pape went to state that safety violations were not just limited to the ABDF JAIL line but also occurred on other ABDF lines. On March 18, 2011 the Board decide that application contained false and misleading information based on the fact that Mr. Pape had no knowledge of the application.

On April 18, 2011 the ABDF submitted an APPLICATION FOR AUTHORITY FD 35498 In its application the ABDF goes to great lengths to apologize for repeatedly ignoring the Boards Directions it offers no excuses but immediately presents them. One fact stated by the applicant was its perceived need for compliance with the Michigan Liquor Control license requirements. *"Since ABDF holds a liquor license, approval of any change in shareholder is required by the Michigan Liquor Control Commission ("MLCC"). The approval process at the MLCC is slow and cumbersome and can take well more than a year."* This statement is misleading after you read the MLCC 436.1529 (see exhibit A) Item (2) requires each privately held licensed corporation to report by July 1 of each year, any stocks transferred in the previous year. If the ABDF was keeping the required accounting this does not seem like a daunting task, seeing that it must be done every year. Also if one followed the logic presented by the ABDF the thousands of licensed corporations or LCCs in the state of Michigan would be in a constant state of flux. One would have to drive to a neighboring state for a glass of wine with your dinner.

The ABDF goes on to address the Board cited allegations of Dale Pape. They state that substance of Mr. Pape's allegations is irrelevant. How would the ABDF feel if Mr. Pape and Miss Osment filed for a dismissal and put the rest of the shareholders names on it including Mr. Dobronski's? They further go on to chide the Board that it lacks jurisdiction in the matter. Who might they think would have jurisdiction over a FALSEHOOD on an application TO THE SURFACE TRANSPORTATION BOARD, the local dog catcher??

The ABDF and Mr. Dobronski go on to personally attack Mr. Pape thru out the filing and in Mr. Dobronski's Verified Statement. Just as they did to any one opposing them in all the filings I have addressed in this letter.

As you can see a pattern as appeared, attack the creditability of anyone that opposes the ABDF. Counsel for the ABDF and Mr. Dobronski have repeatedly cited the need of or the lack of a verified statement while purporting the values of the Verified Statements of Mr. Dobronski. I believe that the Board can ascertain facts from verified and sworn statements. I also believe it must examine the credibility of those making them. It falls within the Board's Cannon of Ethics to do so. The Board must also way the evidence that has been presented and in what light it was presented.

In the case of what the ABDF presented about the finances of the YW, it had absolutely no bearing on the facts presented about the switching of cars in interchange on the JAIL Railroad. It served absolutely no purpose other than to attack the person instead of the testimony he presented. The same pattern was used in attacking the UTU and the BLET. Attack and counter charge, deflect the spot light onto someone else. Only this time they publish names of persons that have absolutely no knowledge of any thing to do with the ABDF. They decertified an Engineer and blamed another Railroad for not properly training their employees. What does any of it have to do with the ABDF actions? Did they submit an action plan on how to train their employees on the rules of foreign roads? NO. It's always someone else's fault.

In the case of its response to Mr. Pape they rely on as with the others the verified statements of Mr. Dobronski. I would ask the Board to consider the following exhibits. While I make no personal judgments of Mr. Dobronski, I submit these exhibits so the Board can review his actions in other legal matters, so that it may make an informed judgment as to the credibility of his statements.

In (Ex.B) page 7. The board will see behavior similar to what I have described earlier. When charged with doing something wrong Mr. Dobronski made false accusations about his accuser. You will also see that these charges were upheld by State of Arizona Commission on Judicial Conduct (Ex.C), The Supreme Court of Arizona (Ex.D) and the UNITED STATES COURT OF APPEALS FOR THE NITH CIRCUIT (Ex.E).

In Closing the ABDF by not responding to the POR and by making false statements, has once again flaunted rules of Procedure as laid out by the Board. I would ask that the Board deny the ABDF Application for its Continuance in Control.

Sincerely:

Scott C. Cole
2700 Noon Rd.
Jackson, MI. 49201

Ex. A.

436.1529 Transfer of license or interest in license; notice of transfer of stock in licensed corporation or licensed limited partnership; investigation to ensure compliance; approval; transfer fee; inspection fee.

Sec. 529.

- (1) A license or an interest in a license shall not be transferred from 1 person to another without the prior approval of the commission. For purposes of this section, the transfer in the aggregate to another person during any single licensing year of more than 10% of the outstanding stock of a licensed corporation or more than 10% of the total interest in a licensed limited partnership shall be considered to be a transfer requiring the prior approval of the commission.
- (2) Not later than July 1 of each year, each privately held licensed corporation and each licensed limited partnership shall notify the commission as to whether any of the shares of stock in the corporation, or interest in the limited partnership, have been transferred during the preceding licensing year. The commission may investigate the transfer of any number of shares of stock in a licensed corporation, or any amount of interest in a licensed limited partnership, for the purpose of ensuring compliance with this act and the rules promulgated under this act.
- (3) Except as otherwise provided in subdivisions (a) through (f), upon approval by the commission of a transfer subject to subsection (1), there shall be paid to the commission a transfer fee equal to the fee provided in this act for the class of license being transferred. A transfer fee shall not be prorated for a portion of the effective period of the license. If a person holding more than 1 license or more than 1 interest in a license at more than 1 location, but in the name of a single legal entity, transfers all of the licenses or interests in licenses simultaneously to another single legal entity, the transfers shall be considered 1 transfer for purposes of determining a transfer fee, payable in an amount equal to the highest license fee provided in this act for any of the licenses, or interests in licenses, being transferred. A transfer fee shall not be required in regard to any of the following:
 - (a) The transfer, in the aggregate, of less than 50% of the outstanding shares of stock in a licensed corporation or less than 50% of the total interest in a licensed limited partnership during any licensing year.
 - (b) The exchange of the assets of a licensed sole proprietorship, licensed general partnership, or licensed limited partnership for all outstanding shares of stock in a corporation in which either the sole proprietor, all members of the general partnership, or all members of the limited partnership are the only stockholders of that corporation. An exchange under this subdivision shall not be considered an application for a license for the purposes of section 501.
 - (c) The transfer of the interest in a licensed business of a deceased licensee, a deceased stockholder, or a deceased member of a general or limited partnership to the deceased person's spouse or children.
 - (d) The removal of a member of a firm, a stockholder, a member of a general partnership or limited partnership, or association of licensees from a license.
 - (e) The addition to a license of the spouse, son, daughter, or parent of any of the following:
 - (i) A licensed sole proprietor.
 - (ii) A stockholder in a licensed corporation.
 - (iii) A member of a licensed general partnership, licensed limited partnership, or other licensed association.
 - (f) The occurrence of any of the following events:
 - (i) A corporate stock split of a licensed corporation.
 - (ii) The issuance to a stockholder of a licensed corporation of previously unissued stock as compensation for services performed.
 - (iii) The redemption by a licensed corporation of its own stock.
- (4) A nonrefundable inspection fee of \$70.00 shall be paid to the commission by an applicant or licensee at the time of filing any of the following:
 - (a) An application for a new license or permit.
 - (b) A request for approval of a transfer of ownership or location of a license.

Ex B

Kathryn L. Petroff
Disciplinary Counsel (Bar #015963)
Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 542-5200

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ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge)	
)	Case No. 00-046, <i>et al</i>
MARK W. DOBRONSKI,)	
Scottsdale Justice Court)	STATEMENT OF CHARGES
Maricopa County)	
State of Arizona)	
Respondent.)	

The Commission on Judicial Conduct ("Commission") has determined, following a preliminary investigation, that there is reasonable cause to commence formal proceedings against Mark W. Dobronski ("Respondent"). This statement of charges sets forth the jurisdiction of the Commission and specifies the nature of the alleged misconduct.

JURISDICTION

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution, and this Statement of Charges is filed pursuant to Rule 8 of the Rules of Procedure for the Commission on Judicial Conduct.

2. Respondent has served as a full-time justice of the peace in Scottsdale since January 1, 1999. Respondent was serving in his capacities as a justice of the peace at all times relevant to the allegations contained herein and is and has been subject to all canons of the Code of Judicial Conduct ("Code") as set forth in Rule 81 of the Rules of the Supreme Court.

3. In addition to the canons listed after each count below, each and every count of the described conduct violates Canons 1 and 2A of the Code. Each count of the described conduct also

constitutes willful misconduct in office and is prejudicial to the administration of justice that brings the judicial office into disrepute in violation of Article 6.1, § 4 of the Arizona Constitution ("Article 6.1").

4. As of February 26, 2001, the commission has 41 open complaints against Respondent, despite his having taken office only 25 months ago. All of the complaints speak to Respondent's repeated failure to conduct himself in a temperate, judicious manner, to interpret the law correctly or consistently, or to observe minimal standards of due process and fair adjudication of cases.

**I. DISCOURTEOUS, INTOLERANT AND UNDIGNIFIED TREATMENT
OF PERSONS COMING BEFORE THE COURT**

5. On July 21, 1999, an attorney and her associate witnessed Respondent ask a criminal defendant his name in open court. The defendant stated that his name was "Jose." Respondent then replied, "If you are Hose 'A,' where's Hose 'B'?" Both the attorney and her associate were appalled by the comment. The above-described conduct violated, among other provisions of the Code, Canons 3B(4)(a judge shall be dignified and courteous to litigants) and 3B(5)(a judge shall not manifest bias based upon race).

6. On February 1, 2000, Respondent asked a female observer sitting in the court gallery, "What are you here for? Drunk driving?" When the observer stated she was there to give her plaintiff husband moral support, Respondent laughed. When the plaintiff faltered in responding to Respondent's cross-examination, Respondent asked the plaintiff if he were deaf. Respondent then asked the observer whether she was the plaintiff's attorney. Taking her "cue" from Respondent, the observer answered, "Yes," in a mildly jesting manner, but immediately corrected herself and informed Respondent, again, that she was only there to support her husband. Respondent replied,

"Oh, so you just lied to me in my courtroom?" The observer felt threatened by this remark. Respondent then warned the plaintiff, if he chose to go to trial, "You had better know every single page of the [Arizona Rules of Procedure] before you come. If you choose to hire an attorney, and you better, tell him not to even think about changing the trial date." The above-described conduct violated, among other provisions of the Code, Canon 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in an official capacity), 3B(5)(a judge shall perform judicial duties without bias) and 3B(8)(a judge shall dispose of judicial matters fairly).

7. On February 7, 2000, Respondent engaged in a heated disagreement with an attorney waiting in the court gallery regarding the attorney's filing peremptory change of judge notices whenever Respondent was assigned to one of the attorney's criminal cases. The attorney advised Respondent that he "noticed" him because Respondent had filed a bar complaint against him for speaking rudely to Respondent's clerk. (The clerk involved did not believe the incident warranted a bar complaint and the complaint was subsequently dismissed.) Respondent advised the attorney that the notices were disrupting his court calendar and ordered the attorney to come through the bar to the defense table, empty his pockets, and prepare to be handcuffed by a deputy and taken to jail. The attorney asked that the proceedings be recorded, but Respondent refused. The attorney eventually left the court without having been handcuffed. On March 7, Respondent filed a second bar complaint against the attorney based on the February 7 altercation. The complaint was dismissed. The above-described conduct violated, among other provisions of the Code, Canons 3B2(a judge shall be faithful to the law), 3B(4)(a judge shall be patient, dignified and courteous to attorneys) and 3B(8)(a judge shall dispose of judicial matters promptly, efficiently and fairly).

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8. On May 18, 2000, Respondent engaged in a heated argument with a defendant while the defendant was involved in a mediation hearing. When the defendant continued to disagree with Respondent on a point of law, Respondent took a set of handcuffs from his desk drawer, displayed them to the defendant and told him he would be handcuffed and jailed for contempt. Respondent then summarily ruled in the plaintiff's favor, although the case was not before him. Court staff, court visitors, attorneys and others have witnessed Respondent threatening people by displaying handcuffs on several other occasions, referring to them as the "Dobronski jewelry kit" and the "Dobronski bracelets." The above-described conduct violates, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law), 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in an official capacity) and 3B(8)(a judge shall dispose of judicial matters fairly).

9. On July 21, 2000, a visitor attempted to leave Respondent's court from his seat in the gallery during a hearing. Respondent shouted, "Sit down in my courtroom or I will find you in contempt!" After arguing with the visitor about whether court observers could leave while a hearing was taking place, Respondent found the visitor in criminal contempt for disrupting his courtroom. When the visitor advised, "I'll be appealing that," Respondent stated, "Right now. You're going to jail. Have a seat. . . . You're going to talk back to me in my courtroom?" The visitor was then directed to sit in the prisoner bay. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law), 3B(4)(a judge shall be patient, dignified and courteous to persons with whom he deals in a judicial capacity), 3B(7)(a judge shall accord the right to be heard) and 3B(8)(a judge shall dispose of judicial matters fairly).

10. On July 27, 2000, during a series of forcible detainer trials, described in more detail beginning at paragraph 15 below, Respondent repeatedly demonstrated intolerance, impatience and a menacing demeanor toward the defendants, speaking to them in a sarcastic and patronizing manner. He prohibited one defendant from "swaying," told another defendant he was acting like a "kindergartner," and repeatedly interrupted the defendants or forbade them from speaking. At the end of the first trial, Respondent asked a defendant if he had any further questions for his witness. When the defendant hesitated, Respondent interrupted, "Time's up! Time's up! Sit down, sir! Time's up!" When this defendant asked whether he could call another witness, Respondent answered, "That's it. We're done." During a short break between trials, a defendant inquired whether the proceedings were being recorded. This defendant had previously addressed the court when another defendant outside the courtroom had run out of portable oxygen. The defendant had been firm but respectful on both occasions. Respondent inexplicably replied, in a loud voice, "Ma'am, if you interrupt me one more time. I WILL find you in contempt. You apparently seem to think that you are directing this proceeding. I do not know where you think you are directing this proceeding. I have asked for decorum in this courtroom." The above-described conduct violated, among other provisions of the Code, Canons 3B(4)(a judge shall be patient, dignified and courteous to litigants and others), 3B(7)(a judge shall accord the right to be heard) and 3B(8)(a judge shall dispose of judicial matters fairly).

II. DISCOURTEOUS, INTOLERANT AND UNDIGNIFIED TREATMENT OF COURT PERSONNEL

11. Since January 1999, Respondent has frequently related to his staff summaries of the day's courtroom proceedings, to the effect that he had "showed" a certain attorney "who was boss," or that

he had thwarted the attempts of litigants and attorney to "play games" with him. On these occasions, he referred to the litigants and attorneys who had been before him as "dumb" or as being "idiots" or "assholes." Staff was uncomfortable listening to these obscenity-laced and discourteous commentaries. The above-described conduct violates, among other provisions of the Code, Canons 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in his judicial capacity) and 4A(a judge shall conduct extrajudicial activities so that they do not demean the judicial office, cast reasonable doubt on the judge's capacity to act impartially, or interfere with performance of judicial duties).

12. From January 1999 until approximately June 1999, Respondent greeted his chief clerk on a regular basis by remarking, "You look like shit—what the hell is wrong with you?" The clerk felt intimidated and distressed by these comments. During this same time, Respondent told another female clerk, on at least one occasion, that she "looked like shit." The clerk was offended by the comment. The above-described conduct violated, among other provisions of the Code, Canons 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in his judicial capacity), 3C(1)(a judge shall diligently discharge his administrative responsibilities without bias) and 4A(a judge shall conduct extrajudicial activities so that they do not demean the judicial office, cast reasonable doubt on the judge's capacity to act impartially, or interfere with performance of judicial duties).

13. In or around July 2000, one of Respondent's clerks asked permission to switch from full-time to part-time employment so she could spend more time caring for her children and ailing parents. Respondent subsequently announced to his chief clerk, in the presence of several other court personnel, "I don't want you to hire any more women because I don't want anyone else quitting to

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go home to take care of their kids!" or words to that effect. The clerks were affronted. The above-described conduct violated, among other provisions of the Code, Canons 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in his judicial capacity) and 3C(1)(a judge shall diligently discharge his administrative responsibilities without bias).

III. FALSE ACCUSATIONS OF MISCONDUCT BY OTHERS

14. In addition to filing two unfounded bar complaints against the attorney described in paragraph 7 above and suggesting that the commission initiate bar proceedings against the attorney-complainant described in paragraph 29 below, on or about June 28, 2000, Respondent alleged to a city court presiding judge that the city administrator had used "sexually explicit" language in connection with Respondent's chief clerk. Respondent stated that he did not appreciate the administrator's "potty mouth" and that he was going to institute sexual harassment proceedings against the administrator. Respondent subsequently met with the city's human resources department to report the "sexual harassment." The alleged victim, Respondent's chief clerk, declined to be interviewed by the city because she had no direct knowledge of the allegations and because the alleged remarks, even if true, were not offensive. The sexual harassment claim was summarily dismissed. The above-described conduct violated, among other provisions of the Code, Canons 2B(a judge shall not use his office to advance private interests), 3C(1)(a judge shall diligently discharge his administrative responsibilities without bias and shall cooperate with other judges and court officials in the administration of court business), and 4A(a judge shall conduct extrajudicial activities so that they do not demean the judicial office, cast reasonable doubt on the judge's capacity to act impartially, or interfere with performance of judicial duties). This conduct also constitutes a violation of Administrative Order No. 92-33 (any judicial employee who knowingly or recklessly

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makes a false accusation of sexual harassment is subject to disciplinary action up to and including dismissal).

IV. FAILURE TO ACCORD DUE PROCESS TO DEFENDANTS AND RULE WITH IMPARTIALITY

15. On July 27, 2000, Respondent heard approximately 30 forcible detainer cases against 30 *pro per* defendant tenants living in the same mobile home park. Many did not speak English. Respondent held the 30 pretrial hearings between approximately 10:30 a.m. and 12:25 p.m., immediately followed by the trials, which lasted from approximately 12:45 p.m. until 8:30 p.m. Respondent did not offer any breaks to the defendants and did not break for lunch, although he sipped soda from the bench. The defendants did not feel free to leave the courtroom for most of the day because Respondent was calling the cases out of numerical order (as further explained in paragraph 17 below) and defaulting defendants who were not in the courtroom at that time. In addressing this allegation, Respondent explained that he was required to hear all of the cases in one day because forcible detainer matters must be dealt with expediently. The above-described conduct violated, among other provisions of the Code, Canons 3(B)(7)(a judge shall accord defendants a right to be heard) and 3B(8)(a judge shall dispose of judicial matters fairly).

16. During the pretrial proceedings described in paragraph 15, Respondent allowed co-defendant Christian Rosendahl to interpret for five Hispanic defendants who could not speak English. Respondent directed Rosendahl to instruct these defendants that the court did not supply interpreters, but he did not tell Rosendahl to inform them that he was not going to allow Rosendahl to translate during their trials, scheduled to take place that afternoon. When the trials were called, Respondent defaulted the five defendants for not having certified translators and for consequently

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not being able to defend themselves. He did, however, allow a sixth Hispanic defendant to have his brother-in-law translate for him, remarking that the brother-in-law, Edward Gandchoff, had a "good Slavic name." The above-described conduct violated, among other provisions of the Code, Canons 3B(5)(a judge shall perform judicial duties without racial bias), 3B(7)(a judge shall accord to every person the right to be heard), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

17. Respondent advised the defendants several times during the pretrial that he would hear the trials in the numerical order in which they had been heard that morning. In the afternoon, however, he allowed plaintiff's counsel to call the cases himself in random order. At one point, Respondent attempted to default defendants who were temporarily out of the room. In his haste, he defaulted one defendant who was in the room because she had not responded when he mispronounced her name, and defaulted another defendant who was in the hall assisting a disabled defendant who had run out of portable oxygen. The above-described conduct violated, among other provisions of the Code, Canons 3B(3)(a judge shall require order in proceedings before him), 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in his judicial capacity), 3B(5)(a judge shall perform judicial duties without bias), 3B(7)(a judge shall accord to every person the right to be heard), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

18. During the afternoon trials described in paragraph 15, Respondent argued loudly with one of the defendants' two paralegals about her presence in the gallery. When she became exasperated, he ordered her to leave the courtroom. Respondent subsequently removed the second

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paralegal for allowing his pager to ring in court, but did not sanction the plaintiff when his pager rang later on the grounds that he was on the witness stand at the time. The above-described conduct violated, among other provisions of the Code, Canon 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in his judicial capacity), 3B(5)(a judge shall perform duties without bias), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

19. Only two out of the 30 original pretrial defendants described in paragraph 15 were afforded a full hearing. The Respondent directed verdicts against most of the remaining defendants after plaintiff had presented his case in chief, assuming they could not possibly have a defense. After directing verdicts and awarding the same opposing counsel \$400 in attorney fees for each case, Respondent advised departing defendants, one by one, to "Have a nice day." Each judgment had been pre-marked "guilty" even though none of the cases involved criminal charges. Respondent threatened one witness, who was being excluded from the courtroom temporarily, with contempt if she spoke to "anyone" outside the room. When a defendant asked Respondent to explain to him at what stage his trial was in after an interruption, Respondent refused. He then gave the defendant "30 seconds" to finish his trial and ignored the defendant's request to be advised of his appeal rights. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law), 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in his judicial capacity), 3B(5)(a judge shall perform his duties without bias), 3B(7)(a judge shall accord to every person the right to be heard), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

20. Respondent repeatedly interposed himself into the proceedings for the benefit of plaintiff's counsel by invoking the rule excluding witnesses on his own motion, by reminding counsel to have exhibits admitted if he had forgotten, and by asking counsel if he wished to move for directed verdict. The above-described conduct violated, among other provisions of the Code, Canons 3B(5)(a judge shall perform his duties without bias), 3B(7)(a judge shall accord to every person the right to be heard), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

21. Respondent refused to address requests from several defendants for a change of judge for cause based on their perceptions that Respondent was biased against them. In one case, the defendant asked, "I just wondered if there was any conflict of interest. Between you and the attorney." Respondent paused and then replied, "If you believe there's a conflict of interest, it's a little late in the day to be raising that issue." The defendant pointed out that his trial had just started. He explained, "I've just got up here. I just got on the stand. If I'd talked out of turn, I would have been held in contempt." Respondent replied, "When we started these proceedings, if you had such an objection, that was the time for it. Any other issues, sir? I'm not here to answer questions. The judge, pursuant to the rules of evidence . . . is never subject to examination in the courtroom." The above-described conduct violated, among other provisions of the Code, Canons 3B(5)(a judge shall perform his duties without bias), 3B(7)(a judge shall accord to every person the right to be heard according to law), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

22. During the July 27 trials, Respondent told defendants that they were not allowed to pass papers to each other or to write notes. He told defendant Crane, "I see you're passing notes around;

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you're getting papers. So, if you are going to do that, please do it in the hall." When Crane questioned Respondent, he ordered loudly, "You may LEAVE the courtroom NOW." Crane replied, "Excuse me, your honor, I am only taking notes for my personal business. What you've observed as me 'flipping' is only turning the page . . ." Respondent then ordered, "See that she is removed from the courtroom." When Crane asserted she had a right to be in the courtroom, Respondent immediately found her in contempt of court, ordered her to pay \$300 or serve 30 days in jail, and had her removed from the courtroom. Crane's trial was called a few minutes later and Respondent defaulted her stating, "[Crane] chose not to be with us." Respondent then advised another defendant that he could not "flip papers" either. The above-described conduct violated, among other provisions of the Code. Canons 3B(2)(a judge shall be faithful to the law), 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in his judicial capacity), 3B(5)(a judge shall perform his duties without bias), 3B(7)(a judge shall accord to every person the right to be heard), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

23. After the July 27 trials, pro per defendant Quarantino moved for reconsideration on the grounds that Respondent was annoyed with him for having pled "not guilty." Respondent replied that Quarantino's case had been more than three hours long and that he had gotten a "smoking deal" on attorney fees. In fact Quarantino's trial lasted approximately one hour, not excluding time for Respondent's frequent interruptions to chastise the gallery or remove people from the court. Respondent advised Quarantino that if he considered his motion for reconsideration, the attorney's fees would "go up from there," and asked him whether he wanted to "stop while [he] was ahead." Quarantino withdrew his motion. The above-described conduct violated, among other provisions of

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the Code, Canons 3B(2)(a judge shall be faithful to the law), 3B(4)(a judge shall be patient, dignified and courteous to those with whom he deals in his judicial capacity), 3B(5)(a judge shall perform his duties without bias), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

V. *EX PARTE* PROCEEDINGS

24. Before the afternoon trials described beginning at paragraph 15 above, Respondent told his clerk to get the answer fees from the defendants as soon as possible so he could default whoever didn't file an answer that day, stating, "Cause I'm expecting some of them won't be [filing an answer]." Respondent then entered into a lengthy conversation with plaintiff's counsel without any of the defendants being present. The conversation was viewed by the defendants and other observers through the glass courtroom door windows. The above-described conduct violated, among other provisions of the Code, Canons 3B(5)(a judge shall perform his duties without bias), 3B(7)(a judge shall not take part in *ex parte* communications), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned)

25. After the July 27 forcible detainer trials, Respondent had *ex parte* communications with plaintiff's counsel for the purpose of developing a strategy for dealing with the defendants who might try to pursue their appeal rights. Respondent sometimes engaged court staff to deliver "updates" on the status of the appeals to plaintiff's counsel. Respondent has engaged in similar *ex parte* communications on other occasions, even after being warned by court staff that the practice was improper. The above-described conduct violates, among other provisions of the Code, Canons 3B(5)(a judge shall perform his duties without bias), 3B(7)(a judge shall not take part in *ex parte*

communications), 3B(8)(a judge shall dispose of judicial matters fairly) and 3E(1)(a)(a judge shall disqualify himself from proceedings in which his impartiality might be questioned).

**VI. FAILURE TO BE FAITHFUL TO THE LAW AND
TO RULE FAIRLY AND WITHOUT BIAS**

26. On or about February 19, 1999, Respondent dismissed a case and counterclaim with prejudice on his own motion on the grounds that both counsel had failed to appear for a pretrial conference. In fact, they had appeared at the time scheduled and Respondent was aware of this. Plaintiff's counsel successfully appealed the decision on the grounds that the dismissal with prejudice was an abuse of discretion. Defense counsel's appeal was dismissed as untimely. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(7)(a judge shall accord parties the right to be heard) and 3B(8)(a judge shall dispose of matters fairly).

27. Despite the result described in paragraph 26 above, Respondent improperly reversed his February 19 order in its entirety after it was remanded to him, allowing defense counsel the opportunity to reurge his client's counterclaim. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law), 3B(5) (a judge shall perform judicial duties without bias) and 3B(8)(a judge shall dispose of matters fairly).

28. In July 2000, Respondent denied a continuance for a pretrial conference which the parties had stipulated to when a scheduling conflict arose due to Respondent changing the original pretrial date on his own motion. When the plaintiff's attorney was unable to attend the rescheduled pretrial conference, Respondent dismissed the case with prejudice. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law), 3B(5)(a

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judge shall perform judicial duties without bias), 3B(8)(a judge shall dispose of matters efficiently and fairly) and 3E(1)(a)(a judge shall disqualify himself in a proceeding in which his bias might reasonably be questioned).

29. On November 1, 1999, Respondent determined, in open court and over the objection of defense counsel, that he would immediately search the inside of a defendant tenant's apartment to determine first-hand whether the defendant was in violation of his lease. Defense counsel filed a complaint with the commission regarding the incident and, in his response, Respondent cited to inapplicable case law in support of his order and urged the commission to file a bar complaint against counsel. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(5)(a judge shall perform duties without bias) and 3B(8)(a judge shall dispose of matters fairly).

30. On December 28, 1999, at an arraignment hearing, Respondent informed a teenaged defendant, in response to her direct inquiry, that if she pled "guilty" to attempting to use a false I.D. to enter a nightclub, whether her driver's license would be suspended depended on the arresting officer's recommendation. Based on Respondent's statement and on the arresting officer's assurance that he would not press for suspension, the defendant pled "guilty." Her driver's license was subsequently suspended for six months—a mandatory consequence pursuant to A.R.S. §§ 28-3309 and 28-3310. Respondent thereafter rejected the defendant's request to withdraw her plea, relying on case law which had been overruled several years ago. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(7)(a judge shall accord parties the right to be heard according to law) and 3B(8)(a judge shall dispose of matters fairly).

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31. When the defendant described in paragraph 30 filed a complaint against Respondent with the commission, Respondent advised the commission that the defendant was not a credible complainant and that her arguments in the matter "create[ed] reason to ponder whether [she] may have additional criminal matters pending in other courts." Despite this appearance of bias, Respondent subsequently heard and denied the defendant's petition for post-conviction relief, asserting that if he had told her the consequences of a "guilty" plea on drivers' license privileges, he would have been giving her improper "legal advice." The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(5)(a judge shall perform judicial duties without bias), 3B(7)(a judge shall accord parties the right to be heard according to law), 3B(8)(a judge shall dispose of matters fairly) and 3E(1)(a)(a judge shall disqualify himself when his impartiality might reasonably be questioned).

32. In February 2000, a small claims plaintiff apparently became belligerent toward Respondent's staff after his case was not defaulted in his favor when the defendant had failed to file a timely answer. Respondent transferred the case from a hearing officer to himself in order to deal personally with the plaintiff and continued the matter on his own motion, allowing the defendant to file a late response. Respondent subsequently granted the defendant's motion to continue, but gave no reason for doing so. (A.R.S. §22-515(C) permits small claims court continuances only "for the most serious reasons.") At the rescheduled hearing, the defendant was permitted to assert a counterclaim not previously raised and Respondent granted the counterclaim without allowing plaintiff time to respond, contrary to Rules 12 and 13 of the Arizona Rules of Civil Procedure. Respondent then dismissed the complaint with prejudice. The above-described conduct violated.

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among other provisions of the Code. Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(5)(a judge shall perform judicial duties without bias), 3B(7)(a judge shall accord parties the right to be heard according to law) and 3B(8)(a judge shall dispose of matters promptly, efficiently, and fairly).

33. On April 12, 2000, a judge pro tempore awarded a plaintiff \$8.63 of her \$93.33 claim in small claims court, but did not rule that the plaintiff's claim was frivolous. In a minute entry dated June 12, Respondent entered an appearance in the matter to deal with a post-trial request by the defendant, and, never having seen the parties or given the plaintiff an opportunity to respond to the defendant's request, ruled that, "... [G]iven the frivolous nature of the claim to begin with, as found by the judge pro tem in this case, and the similar questionable nature of the instant motion, this Court warns both parties that one or both parties may find themselves being ordered to appear to show cause why said party should not be found in contempt of court." The above-described conduct violated, among other provisions of the Code. Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(4)(a judge shall be patient, dignified and courteous to litigants), and 3B(7)(a judge shall accord parties the right to be heard).

34. On August 18, 2000, Respondent scheduled a September 15 judgment debtor examination of a defaulted defendant. The judgment form advised the defendant debtor to "bring such records and documents as may be required in accordance with the attached list," but no list was attached. The two pro per parties appeared on September 15, and, during the hearing, Respondent found that the defendant had failed to produce any documents, described in his subsequent minute entry only as those "required by the Court's order [of August 18]." He then ordered the defendant to produce documents by September 18 and instructed the defendant that he could not move to set

aside the June 7 judgment until he supplied the documents. On September 18, the defendant filed a motion to reopen the case, stating that he had never received a notice to produce any particular documents. On September 20, Respondent denied the motion on the ground that the defendant had not produced the "documents as set forth therein" in his September 15 minute entry. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(7)(a judge shall accord parties the right to be heard according to law) and 3B(8)(a judge shall dispose of matters promptly, efficiently, and fairly).

35. On July 27, 2000, during the forcible detainer pretrial conferences described beginning at paragraph 15 above, a pro per defendant requested a five-day continuance to retain an attorney. Respondent told her that if he granted her request, the fifth day would come on a Sunday, which would make hearing her case "impossible." The defendant asked for a one-day continuance in the alternative, which Respondent denied, indicating that defendants were only allowed one motion to continue. The defendant then asked Respondent for information on filing as an indigent and Respondent replied by saying he could not tell her because that would be giving her "legal advice." The above-described conduct violated, among other things, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(4)(a judge shall be patient, dignified and courteous to litigants), 3B(5)(a judge shall perform judicial duties without bias), 3B(7)(a judge shall accord parties the right to be heard according to law), 3B(8)(a judge shall dispose of judicial matters fairly).

36. During the forcible detainer hearings described in paragraph 15 above, a pro per defendant attempted to enter a "Proof of Delivery" document into evidence during his case in chief

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to prove that he had delivered certain papers to the plaintiff. Respondent instructed the defendant that the only part of the document that could be read into evidence would be "the last line" and had the defendant read that the document was dated July 30. Respondent stated that because the current date was July 27, the document was inadmissible. The defendant asked his witness whether she had received the document in June, the document's date notwithstanding. Respondent disallowed the question, "sustaining" the court's own previous "objection." The witness asked Respondent if she could explain the discrepancy. Respondent stated, "Ma'am, it's not your turn to ask questions and I do not answer questions." The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(4)(a judge shall be patient, dignified and courteous to litigants), 3B(5)(a judge shall perform judicial duties without bias), 3B(7)(a judge shall accord parties the right to be heard according to law) and 3B(8)(a judge shall dispose of judicial matters fairly).

37. On September 27, 2000, during a hearing on an injunction against harassment, Respondent took evidence from a lawyer representing a homeowner's association (HOA), of which the defendant's husband was president, to the effect that following and taking pictures of the disabled petitioner was warranted because she was violating HOA covenants by removing vegetation from a disputed area. The HOA was not a party to the injunction and the issue of whether the vegetation was on HOA controlled property was being disputed in another case. Even though the defendant did not testify as to her conduct, Respondent quashed the injunction and then sanctioned the petitioner under Rule 11, finding she had "no reasonable expectation of privacy." Respondent then found the HOA the "real party in interest" and awarded costs and fees totaling more than \$1,250. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a

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judge shall be faithful to the law and maintain professional competence in it), 3B(5)(a judge shall perform judicial duties without bias) and 3B(8)(a judge shall dispose of judicial matters fairly).

38. Respondent has repeatedly failed to consider an attorney's petitions for change of judge as a matter of right, pursuant to Rule 42(f) of the Arizona Rules of Civil Procedure. Respondent has argued to this commission, in his own "Memorandum Opinion," that Rule 42(f) does not apply to justice court proceedings because the "criminal counterpart," Arizona Rules of Criminal Procedure, Rule 10.2(a), does not apply to justice court proceedings, relying on *Anagnostos v. Truman*, 25 Ariz. App. 190, 541 P.2d 1174 (1975). *Anagnostos*, however, was overruled by *Cain v. City of Tucson*, 135 Ariz. 96, 659 P.2d 649 (1983) several years ago. Further, the Arizona Limited Jurisdiction Reference Manual, with which Respondent is responsible for complying, indicates that Rule 42(f) applies to justice court proceedings. In addition, Respondent has been advised by justice court administration that Rule 42(f) applies to his court. The above-described conduct violates, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it) and 3B(8)(a judge shall dispose of judicial matters fairly).

39. After Respondent had been advised regarding the case law stated in paragraph 38 above, on or about November 15, 2000, an attorney filed a motion for change of judge in Respondent's court, pursuant to Rule 42(f). Respondent, who knew the attorney had filed complaints against him with the commission, delayed ruling on the request for 60 days before denying it, again arguing that Rule 42(f) did not apply to justice court proceedings. The above-described conduct violated, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(5)(a judge shall perform judicial duties without bias) and 3B(8)(a judge shall dispose of judicial matters fairly).

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40. On numerous occasions when Respondent has granted change of judge requests (e.g., in criminal matters), he has transferred those cases to a judge pro tempore working in his court. Respondent has then directed the judge pro tempore on how to rule in each matter and then drafts the minute entry decision for the judge pro tempore's signature. The above-described conduct violates, among other provisions of the Code, Canons 3B(2)(a judge shall be faithful to the law and maintain professional competence in it), 3B(5)(a judge shall perform judicial duties without bias), 3B(7)(a judge shall accord the right to be heard according to law), 3B(8)(a judge shall dispose of judicial matters promptly, efficiently and fairly), 3B(9)(a judge shall not make comment on a proceeding reasonably expected to affect its outcome), 3C(3)(a judge shall assure proper performance of judges over which he has supervisory responsibility) and 3E(1)(a)(a judge shall disqualify himself in a proceeding in which he is biased).

41. Since coming on the bench in January 1999, Respondent has appended his signature to several court documents as having been decided on the day the issues were heard, although Respondent's clerks did not receive these documents to docket or to send to the parties until several weeks or months after Respondent had apparently rendered judgment. The above-described conduct violates, among other provisions of the Code, Canons 3B(8)(a judge shall dispose of judicial matters promptly, efficiently and fairly) and 3C(1)(a judge shall diligently discharge administrative responsibilities and maintain competence in judicial administration).

APPROPRIATE SANCTION

42. The large number of complaints against Respondent alleging repeated instances of similar and serious misconduct, and Respondent's evasive and disingenuous responses to the

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commission, reflect a substantial pattern of inappropriate behavior which strongly suggests Respondent is unfit to serve in a judicial capacity.

WHEREFORE, the Commission, upon conclusion of a hearing and a finding of good cause, may recommend to the Supreme Court that Respondent be publicly censured, suspended or removed from judicial office, that attorney's fees and costs be assessed against Respondent pursuant to Rule 10 of the Rules of Procedure for the Commission and that the Court grant other relief as may be deemed appropriate under the rules or as permitted by the Court.

Dated this 2nd day of March, 2001.

COMMISSION ON JUDICIAL CONDUCT



Kathryn L. Petroff
Disciplinary Counsel

Ex C

Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone (602) 542-5200

FILED

OCT 30 2001

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA

COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge

MARK W. DOBRONSKI,
Scottsdale Justice Court
Maricopa County
State of Arizona,

Case No. 01-272

STATEMENT OF CHARGES

Respondent.

The Commission on Judicial Conduct ("Commission") has determined, following a preliminary investigation, that there is reasonable cause to commence formal proceedings against Justice of the Peace Mark W. Dobronski ("Respondent") for misconduct that occurred during his tenure in office. This statement of charges sets forth the jurisdiction of the Commission and specifies the nature of the alleged misconduct.

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution, and this Statement of Charges is filed pursuant to Rule 8 of the Rules of Procedure for the Commission on Judicial Conduct.

2. Respondent served as a full-time justice of the peace in Scottsdale from January 1, 1999, until October 26, 2001, when he resigned from office after the Commission filed a recommendation for the Respondent's removal for conduct that brought his judicial office into disrepute. While Respondent may now argue that this matter should be dismissed as moot, since the Respondent has expressed his willingness to resign, the Commission nevertheless retains jurisdiction to pursue the matter because the instant charges and the case now pending before the Arizona Supreme Court (Case No. 00-046) raise questions which should be decided for the guidance of the judiciary in the future administration of the judicial system. *See In Re Weeks*, 134 Ariz. 521, 523. In addition, there has been no formal binding agreement that Respondent will neither seek nor hold judicial or quasi-judicial office in the future in this State. Moreover,

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the issues raised herein bear upon the matters now before the Arizona Supreme Court in Case No. 00-046, in addition to questions as to whether Respondent should be assessed attorneys' fees and the amount thereof.

3. While serving as a judge, Respondent had on multiple occasions in his personal and business dealings made extremely offensive, disparaging and derogatory comments regarding African-Americans. The comments fall outside all bounds of decency and reflect unmistakable racial bias and animus. Respondent was asked on October 17, 2001 to respond to these allegations, and did respond and admit the allegations in writing on October 22, 2001.


4. The above-described conduct violated, among other provisions of the Code, Canons 1, 2A, 3A(5), and 4A, and constitutes conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

5. The large number of complaints against Respondent alleging repeated instances of serious misconduct, the Commission's previous findings that Respondent had made racially insensitive and inappropriate remarks in Case No. 00-046, and Respondent's unwillingness to accept responsibility for his misconduct, reflect a substantial pattern of inappropriate behavior which strongly suggests Respondent is unfit to serve in a judicial capacity, now or in the future.

WHEREFORE, the Commission, upon conclusion of a hearing and a finding of good cause, may recommend to the Supreme Court that Respondent be publicly censured, suspended or removed from judicial office, that he be permanently enjoined from ever holding judicial office again, that attorney's fees and costs be assessed against Respondent pursuant to Rule 10 of the Rules of Procedure for the Commission, and that the Court grant other relief as may be deemed appropriate under the rules or as permitted by the Court.

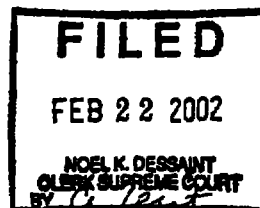
Dated this 29th day of October 2001.

COMMISSION ON JUDICIAL CONDUCT


John D. Everroad and Scott L. Altes
Disciplinary Counsel

Ex. D

SUPREME COURT OF ARIZONA



In the Matter of Judge)	Arizona Supreme Court
)	Nos. JC-01-0001 and
)	JC-01-0002
)	
MARK W. DOBRONSKI,)	
Justice of the Peace,)	Commission on Judicial
Scottsdale Justice Court)	Conduct Nos. 00-046 and
)	01-272
Maricopa County, State of Arizona)	
)	
)	
Respondent.)	O R D E R
)	
)	

The Court has considered the two Petitions to Modify the recommendations of the Commission on Judicial Conduct in these two cases and makes the following rulings:

IT IS ORDERED denying the Petition to Modify in JC-01-0001. Respondent Dobronski is ordered to pay the Commission on Judicial Conduct \$25,000 for attorney's fees plus the costs incurred by the Commission.

IT IS FURTHER ORDERED granting in part the Petition to Modify in JC-01-0002. Respondent Dobronski is ordered to pay the Commission on Judicial Conduct \$5,000 in attorney's fees plus the costs incurred by the Commission. In all other respects, the Petition to Modify is denied.

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Page 2 of 2
JC-01-0001 and JC-01-0002

IT IS FURTHER ORDERED that Respondent Dobronski shall never again seek or hold judicial office in the State of Arizona.

DATED this 22nd day of February, 2002.



CHARLES E. JONES
Chief Justice

TO:
Mark W. Dobronski, Respondent (Certified Mail)
David G. Derickson, Counsel for Respondent
John D. Everroad and Scott L. Altes, Disciplinary Counsel
E. Keith Stott, Director, Commission on Judicial Conduct

lkk

Ex. E

FILED

NOT FOR PUBLICATION

APR 11 2005

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

MARK W. DOBRONSKI,

Plaintiff - Appellant,

v.

STATE OF ARIZONA; et al.,

Defendants - Appellees.

No. 04-15657

D.C. No.

CV-03-00273-PHX-JAT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted March 23, 2005**

Before: B. FLETCHER, TROTT, and SILVERMAN, Circuit Judges.

Mark W. Dobronski appeals pro se the district court's dismissal of his action against the State of Arizona, the Arizona Commission on Judicial Conduct ("CJC")

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Ex. C

and various court officials, brought under 42 U.S.C. § 1983 and other statutes. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, and may affirm on any basis supported by the record. *Ove v. Gwinn*, 264 F.3d 817, 821 (9th Cir. 2001).

The district court correctly dismissed, on Eleventh Amendment grounds, Dobronski's claims against the State of Arizona and the CJC, as well as the claims against Stott and Petroff in their capacity as CJC officers. *See Snoeck v. Brussa*, 153 F.3d 984, 987 (9th Cir. 1998). The district court correctly dismissed Dobronski's claims against Stott and Petroff in their personal capacity because judicial immunity is extended to "certain others who perform functions closely associated with the judicial process." *Moore v. Brewster*, 96 F.3d 1240, 1244 (9th Cir. 1996) (internal citations omitted).

The district court also properly dismissed the claims against Dicus and Martinez because absolute quasi-judicial immunity may also extend to "court clerks and other non-judicial officers for purely administrative acts--acts which taken out of context would appear ministerial, but when viewed in context are actually a part of the judicial function." *In re Castillo*, 297 F.3d 940, 952 (9th Cir. 2002) (citing *Moore*, 96 F.3d at 1244m). The district court was not required to accept as true Dobronski's allegations that Dicus and Martinez criminally tampered

Ex. E

with evidence and conspired with Stott and Petroff to deprive him of his constitutional rights because those allegations were conclusory and based on unreasonable inferences. *See Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004).

Dobronski's remaining contentions lack merit.

AFFIRMED.

CERTIFICATE OF SERVICE

This is to certify that a copy of Scott C. Cole's Comments in FD 35498 has been served this 11th day of July, 2011 via first-class mail upon the following.

Gabriel D. Hall
7846 West Central Avenue
Toledo, OH 43617

Dale R. Pape
1988 West Gier Road
Adrian, MI 49221

John D. Heffner PLLC
1750 K Street, N.W. Suite 200
Washington DC. 20006

Scott C. Cole